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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,906	01/05/2004	Peter Wilhelmus Henricus Rietjens	2007-1005	2003

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EXAMINER

TAWFIK, SAMEH

ART UNIT PAPER NUMBER

3721

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,906

Applicant(s)

RIETJENS, PETER WILHELMUS
HENRICUS

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27 is/are allowed.
- 6) ☒ Claim(s) 1, 6, 8-16, 19-21, 49 and 50 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 8-16, 19-21, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuda (5,279,098).

Fukuda discloses form-fill-seal machine for macking bag- shaped packagings for products, such as edible products, from a web of material, the machine comprising a frame having a stock of web of material (Fig. 1; via 97) and supply of the web material (W) in flat condition, and a form- unit positioned at a front side of the machine (Fig. 12), wherein the form-fill unit comprises a form shoulder (Fig. 1; via 98) for transforming the flat web material into a tube (Fig. 12), as well as a form-fill tube connecting to the form shoulder (Figs. 1 and 12), having a vertical main plane of section, transverse sealing jaws (Figs. 1 and 2; via 40) that are positioned below a lower end of the form-fill tube for forming transverse seals (Figs. 1 and 12) in the tube and which are moveable towards and away from each other in a vertical plane perpendicular to the front side of the machine and the vertical main plane of section, the form shoulder being asymmetrically shaped for forming an overlap in the foil tube which extends to at least distance from or near the said vertical plane of section(Figs. 1&12), wherein the machine furthermore provided with first longitudinal sealing means (Fig. 1; via vertical seal heater belt 102) that are positioned at a first side, at one lateral side of the form tube, as considered from the

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front side of the machine, preferably at a short distance from or near the vertical main plane of section for forming a first severable longitudinal seal at the location of the overlap (Figs. 1 and 12).

Fukuda does not disclose that the web is been used on the machine is made of foil material. However, the examiner takes an official notice that the mentioned use of web made of foil material is old, well known, and available in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Fukuda's web by using web made of foil material, as a matter of engineering design choice, in order to make stronger bags and capable of holding heavier items.

Regarding claim 6: the position of the first longitudinal sealing means is adjustable in direction towards/away from the fill tube (Fig. 12; via 205).

Regarding claim 8: the form-fill unit is detachably placed in the machine. Note it is inherent that the form-fill unit is detachably placed in the machine.

Regarding claim 9: wherein the form/fill tube at the first side at the lower end is provided with a first protrusion, situated in or near the vertical plane of section and extending downwards, and which in horizontal direction is free from the remainder of the lower end Form-fill-seal machine of the fill tube (Fig. 12; via 202).

Regarding claim 10: wherein the first protrusion is pen- or lip-shaped (Fig. 12).

Regarding claim 11: wherein the first protrusion with its end extends beyond the profile of the fill tube (Fig. 12).

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Regarding claim 12: wherein the form/fill tube at its lower end is furthermore provided with at least a second protrusion, which at least situated at the second side and defines a recess with the first protrusion (Fig. 12; via 201).

Regarding claim 13: wherein the second protrusion forms a sharp guiding edge, substantially oriented towards the bottom (Fig. 12).

Regarding claim 14: wherein two second protrusions are present, which extend on either side of the vertical plane of section and preferably keep an area free between them, in which area a fold-maker is able to extend, wherein two second protrusions preferably are connected to each other by a plate, for instance a V-shaped plate, which is forming a cavity for the inwardly folded bottom area to be made (Fig. 12; via top opening).

Regarding claim 15: wherein the fill tube has a substantially rectangular cross-section, having the main sides substantially parallel to the vertical plane of section (Fig. 12).

Regarding claim 16: wherein the first side of the form and fill tube is bent having a flat surface between bent transitions to the main sides (via the hopper).

Regarding claim 21: wherein the first longitudinal sealing means are positioned at a short distance from or near the vertical plane of section (Fig. 12).

Regarding claims 49 and 50: the machine could be designed as a continuously or discontinuously operative machine (Figs. 1 and 12; via feeding continuous and/or capable of stopping the apparatus make it discontinuously operative machine).

Response to Arguments

Applicant's arguments filed 04/04/2005 have been fully considered but they are not persuasive.

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Applicant argues in page 15 and 16 of the arguments that Fukuda's reference discloses the heater belt 102 is on the front side of the machine, not positioned at a first side, at one lateral side of the form-fill tube as considered from the front side of the machine as recited. The examiner believes that it is inherent all Fukuda's stations are linkage connected, which make it inherent the heater belt 102 is somehow connected with the rest of the machine, which could be considered as positioned at a first side, at one lateral side of the form-fill tube.

Applicant argues in page 16 of the arguments that Fukuda is intended to make a permanent seal and not a severable seal as recited. The examiner believes any seals on plastic bags could be severable seal.

Applicant further argues in page 16 of the arguments that Fukuda discloses in Fig. 12 that the web is sealed longitudinally by a vertical seal jaw 205, such seal jaw is on the front side of the tube, not at one lateral side of the form-fill tube as considered from the front side of the tube of the machine as recited. The examiner believes that it is inherent all parts of the apparatus are somehow mechanically linkage to each other, which make jaw 205 could be considered as being located at lateral side of the form-fill tube.

Applicant also argues in page 17 of the arguments that claim 6 provides that the first and second longitudinal sealing means are adjustable in a direction towards/away from the fill tube, wherein the seal 205 of Fig. 12 does not contact the fill tube and does not appear to be movable. The examiner believes that it is inherent that the vertical seal jaw 205 is somehow contacting the fill tube through mechanical linkage as 205 and the fill tube are in the same apparatus and also 205 has to be moving in order to seal the web.

Further applicant argues in page 17 of the arguments that Fukuda does not show or describe the lower end of tube 202, therefore, Fukuda would not disclose or suggest what is recited in claims 9-14. The examiner believes it is clear in Fig. 1 of Fukuda the lower end of the filling tube as by the sealing jaw 40 operates.

Applicant argues in page 17 that claim 15 provides that the fill tube has a substantially rectangular cross section. Fukuda refers to a loading cylinder. The examiner believes that applicant did not positively recited the rectangular cross section by using the limitation “substantially” which is not positively reciting the limitations of the “rectangular cross-section”.

Applicant further argues in page 17 of the arguments that claim 16 provides a first side of the fill tube has a flat surface, while Fukada would not have a flat surface. The examiner believes that Fukada discloses in Figs. 1 and 12 a flat tube surface, which no bend on the tube can be considered as flat fill tube.

Allowable Subject Matter

Claims 22-27 are allowed.

Claims 2-5, 7, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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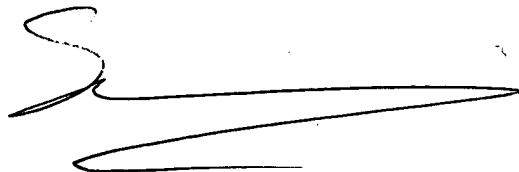
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik
Patent Examiner
Art Unit 3721



ST.